

By

Yarbrough

H.B. No. 1071

A BILL TO BE ENTITLED

AN ACT

relating to performance standards for certain plumbing fixtures and related labeling requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 372.001 and 372.002, Health and Safety Code, are amended to read as follows:

Sec. 372.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas State Board of Plumbing Examiners [~~Natural-Resource-Conservation-Commission~~].

(2) "Code" means the Uniform Plumbing Code or the Southern Standard Plumbing Code, as amended [~~Commissioner~~ means the executive director of the Texas Natural--Resource--Conservation Commission].

(3) [~~"Department" means the Texas Natural-Resource Conservation-Commission.~~]

[~~4~~] "Plumbing fixture" means a sink faucet, lavatory faucet, faucet aerator, shower head, urinal, toilet, flush valve toilet, or drinking water fountain.

(4) [~~5~~] "Toilet" means a toilet or water closet except a wall-mounted toilet that employs a flushometer or flush valve.

Sec. 372.002. WATER SAVING PERFORMANCE STANDARDS. (a) A person may not sell, offer for sale, distribute, or import into this state a plumbing fixture for use in this state unless[~~+~~

1 [~~1~~] the plumbing fixture meets the water saving
2 performance standards provided by Subsection (b)[~~1~~-and

3 [~~2~~]-the-plumbing-fixture-is-listed-by-the--department
4 under-Subsection-(c)].

5 (b) The [water-saving] performance standards for a plumbing
6 fixture are those established by the American National Standards
7 Institute or the following standards, whichever are more
8 restrictive:

9 (1) for a sink or lavatory faucet or a faucet aerator,
10 maximum flow may not exceed 2.2 gallons of water per minute at a
11 pressure of 60 pounds per square inch when tested according to
12 testing procedures adopted by the board;

13 (2) for a shower head, maximum flow may not exceed
14 2.75 gallons of water per minute at a constant pressure over 80
15 pounds per square inch when tested according to testing procedures
16 adopted by the board;

17 (3) for a urinal and the associated flush valve, if
18 any, maximum flow may not exceed an average of one gallon of water
19 per flushing when tested according to the hydraulic performance
20 requirements adopted by the board;

21 (4) for a toilet, maximum flow may not exceed an
22 average of 1.6 gallons of water per flushing when tested according
23 to the hydraulic performance requirements adopted by the board;

24 (5) for a wall-mounted toilet that employs a
25 flushometer or flush valve, maximum flow may not exceed an average
26 of two gallons of water per flushing or the flow rate established
27 by the American National Standards Institute for low-consumption

1 ~~[ultra-low]~~ flush toilets, whichever is lower; and

2 (6) a drinking water fountain must be self-closing.

3 (c) The board shall make and maintain a current list of
4 plumbing fixtures that are certified to the board by the
5 manufacturer or importer to meet the water saving performance
6 standards established by Subsection (b). To have a plumbing
7 fixture included on the list, a manufacturer or importer must
8 supply to the board ~~[department]~~, in the form prescribed by the
9 board ~~[department]~~, the identification and the performance
10 specifications of the plumbing fixture. The board ~~[department]~~ may
11 test a listed fixture to determine the accuracy of the
12 manufacturer's or importer's certification and shall remove from
13 the list a fixture the board finds to be inaccurately certified.

14 (d) The board ~~[department]~~ may assess against a manufacturer
15 or an importer a reasonable fee for an inspection of a product to
16 determine the accuracy of the manufacturer's or importer's
17 certification in an amount determined by the board to cover the
18 expenses incurred in the administration of this chapter. A fee
19 received by the board ~~[department]~~ under this subsection shall be
20 deposited in the state treasury to the credit of the plumbing
21 examiners fund 077 ~~[department]~~ and may be used only for the
22 administration of this chapter.

23 (e) The board ~~[and-the--department]~~ shall, to the extent
24 appropriate and practical, employ the standards designated American
25 National Standards by the American National Standards Institute in
26 determining or evaluating performance standards or testing
27 procedures under this chapter.

1 (f) This section does not apply to:

2 (1) a plumbing fixture that has been ordered by or is
3 in the inventory of a building contractor or a wholesaler or
4 retailer of plumbing fixtures on January 1, 1992;

5 (2) a fixture, such as a safety shower or aspirator
6 faucet, that, because of the fixture's specialized function, cannot
7 meet the standards provided by this section; or

8 (3) a fixture originally installed before January 1,
9 1992, that is removed and reinstalled in the same building on or
10 after that date on the same water supply line and wastewater drain
11 line if the renovation cost does not exceed 51 percent of the
12 appraised value of the building[+-or

13 [~~+-a-fixture-imported-only-for-use-at-the-importer's~~
14 ~~domicile]~~.

15 SECTION 2. Sections 372.003(c) and (d), Health and Safety
16 Code, are amended to read as follows:

17 (c) The board by rule shall prohibit the sale, offering for
18 sale, distribution, or importation into this state of a new
19 commercial or residential clothes-washing machine, dish-washing
20 machine, or lawn sprinkler unless[+-

21 [~~+-the-manufacturer-has-furnished-to-the-department,~~
22 ~~in-the-form-prescribed-by-the-department,--the--identification--and~~
23 ~~performance-specifications-of-the-device,--and~~

24 [~~+-2+~~] the clothes-washing or dish-washing machine or
25 lawn sprinkler is labeled in accordance with rules adopted by the
26 board with a statement that describes the device's water use
27 characteristics.

1 (d) Rules adopted or amended under this section shall be
2 developed by the board in conjunction with a technical advisory
3 panel of designated representatives of the Texas Water Development
4 Board, the Texas Natural Resources Commission, the Texas Department
5 of Health, and other outside technical experts [~~the-Texas-State~~
6 ~~Board--of--Plumbing--Examiners,--and--the--Texas--Natural--Resource~~
7 ~~Conservation-Commission~~].

8 SECTION 3. Sections 372.004(c) and (d), Health and Safety
9 Code, are amended to read as follows:

10 (c) Not later than the 30th day after the date on which the
11 board's [~~commissioner's~~] order assessing the administrative penalty
12 is final, the person assessed shall pay the full amount of the
13 penalty or file a petition for judicial review. If the person
14 seeks judicial review, the person shall send the amount of the
15 penalty to the board [~~commissioner~~] for placement in escrow or post
16 with the board [~~commissioner~~] a bond in a form approved by the
17 board [~~commissioner~~] for the amount of the penalty, the bond to be
18 effective until judicial review of the order is final. A person
19 who fails to comply with this subsection waives judicial review.

20 (d) The board [~~commissioner~~] may request enforcement by the
21 attorney general if the person assessed the penalty fails to comply
22 with this section.

23 SECTION 4. Sections 372.005(b), (c), (e), and (g), Health
24 and Safety Code, are amended to read as follows:

25 (b) If it appears that a person has violated, is violating,
26 or is threatening to violate this chapter or a rule adopted under
27 this chapter, the board [~~department~~], a county, or a municipality

1 may bring a civil action in a district court in Travis County, the
2 county in which the defendant resides, or the county where the
3 violation occurred, is occurring, or is threatened for:

4 (1) injunctive relief to restrain the person from
5 continuing the violation or threat of violation;

6 (2) the assessment of a civil penalty for a violation;

7 or

8 (3) both injunctive relief and a civil penalty.

9 (c) The board [~~department~~] is an indispensable party in a
10 suit brought by a county or municipality under this section.

11 (e) In a suit to enjoin a violation of this chapter or a
12 rule adopted under this chapter, the court shall grant the state,
13 board [~~department~~], county, or municipality, without bond or other
14 undertaking, any injunction that the facts warrant, including a
15 temporary restraining order, temporary injunction, or permanent
16 injunction.

17 (g) At the request of the board [~~department~~], the attorney
18 general shall bring and conduct a suit in the name of the state for
19 injunctive relief, to recover a civil penalty, or both.

20 SECTION 5. (a) This Act takes effect September 1, 1993.

21 (b) The Texas State Board of Plumbing Examiners shall adopt
22 rules and codes necessary to implement the performance standards
23 established by Chapter 372, Health and Safety Code, as amended by
24 this Act, not later than January 1, 1994.

25 (c) The Texas State Board of Plumbing Examiners shall
26 propose, on or before September 30, 1993, rules necessary to
27 implement the labeling requirements, according to the labeling

1 requirements established by the Uniform Plumbing Code and the
2 Southern Standard Plumbing Code, as provided by Chapter 372, Health
3 and Safety Code, as amended by this Act, and shall adopt rules
4 necessary to implement the labeling requirements as provided by
5 that chapter to take effect on January 1, 1994.

6 SECTION 6. The importance of this legislation and the
7 crowded condition of the calendars in both houses create an
8 emergency and an imperative public necessity that the
9 constitutional rule requiring bills to be read on three several
10 days in each house be suspended, and this rule is hereby suspended.

H. B. No. 1071

By Gachuan

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relating to performance standards for certain plumbing
fixtures and related labeling requirements.

FEB 22 1993

1. Filed with the Chief Clerk.

FEB 24 1993

2. Read first time and Referred to Committee on

LICENSING & ADMINISTRATIVE PROCEDURES

3. Reported favorably (as amended) and sent to Printer at _____
(as substituted)

4. Printed and distributed at _____

5. Sent to Committee on Calendars at _____

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ yeas, _____ nays, _____
present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____
present, not voting).

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote
of _____ yeas, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____
nays, and _____ present, not voting).

12. Ordered Engrossed at _____

13. Engrossed.

14. Returned to Chief Clerk at _____

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on _____

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION: OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments.)
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____